REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 1-20 remain pending.

Some claims have been amended through this reply, but only to correct for minor informalities. The scope of the claims remain unchanged.

ALLOWABLE SUBJECT MATTER

Applicant appreciates that claims 2-7, 9-14, and 16-20 are indicated to define allowable subject matter.

§ 103 REJECTION - PRIMARY, SECONDARY, TERTIARY

Claims 1, 8 and 15 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Lobo et al. (USP 5,781,650, hereinafter "Lobo") in view of Lawton et al. (USP 5,990,901, hereinafter "Lawton"). Applicant respectfully traverses.

For a Section 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142.* One requirement to establish *prima facie case* of obviousness is that the prior art references, when combined, must teach or

suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j).* Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, the combination of Lobo and Lawton cannot be relied upon to teach or suggest all features of the claims. For example, independent claim 1 recites, in part "a component for setting, on the basis of the detected positions corresponding to the <u>top-of-head portion and the eye portions of the person</u> in the original image, a trimming region for said original image to position said facial region at a predetermined position within the trimming region at a predetermined size ratio." *Emphasis added.* Independent claims 8 and 15 recite similar features. The Examiner asserts that Lobo teaches this feature. *See Office Action, page 2, item 1, third paragraph.*

Contrary to the Examiner's assertion, Lobo cannot be relied upon to teach or suggest this feature. More specifically, Lobo is directed toward automatically finding facial features of a human face in an electronically digitized image and classifying the age of the person into an age category. *See Lobo, Abstract.* Lobo discloses a four step process used for age classification.

See Lobo, Figure 1A; column 3, line 64 – column 4, line 4. The four steps include 1) finding facial features; 2) completing facial feature ratios; 3) completing wrinkle analysis; and 4) categorizing age. Lobo describes each of the steps in detail.

Lobo discloses finding an initial rough oval as a face outline, finding a chin, finding sides of the face, finding the eyes, finding the mouth, and finding a nose. *See Figure 3.* The object of Lobo is to find facial features from images and classify the images by age as noted above. Therefore, in Lobo, the facial features – face outline, chin, sides of the face, eyes, mouth, and nose – must be found relatively precisely.

In contrast, in the independent claims, finding the top-of-head portion and the eye portions are required. Lobo is completely silent regarding whether these positions are detected. Then clearly, Lobo may not be relied upon to teach or suggest at least the feature of the independent claims as recited above. Therefore, independent claims 1, 8 and 15 are distinguishable over the combination of Lobo and Lawton.

Applicant respectfully requests that the rejection of claims 1, 8 and 15 based on Lobo and Lawton be withdrawn.

CONCLUSION

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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